

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

DANIEL W. FITZGERALD

Plaintiff

v.

VIRGINIA COMMONWEALTH, et al.

Defendants

Case No: 1:18-cv-758

**DEFENDANT JEFFREY MANGENO'S RULE 12(b)(6) MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED**

COMES NOW your defendant Jeffrey Mangeno, by and through counsel, and respectfully submits this Motion to Dismiss For Failure to State a Claim Upon Which Relief May be Granted pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of his motion Defendant Mangeno attaches and incorporates a Memorandum of Law.

WHEREFORE for the reasons stated in Defendant Mangeno's Memorandum filed in support hereof, Mangeno prays for an Order

- i. Granting this motion,
- ii. Dismissing this action against him for failing to comply with the pleading standards set forth by Fed. R. of Civ. Pro. 8.
- iii. For such any and further relief as this Court may deem just.

WARNING TO *PRO SE* LITIGANT

As required by Local Civil Rule 7(K) of the Eastern District of Virginia the Defendant hereby gives the following warning to *pro se* litigant consistent with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975).

1. You are entitled to file a response opposing this motion. Any such response must be filed within twenty-one (21) days of the date on which this motion is filed.
2. The Court could dismiss your action on the basis of the moving party's papers if you do not file a response
3. You must identify all facts stated by the moving party with which you disagree and must set forth your version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and
4. You are entitled to file a legal brief in opposition to the one filed by the moving party.

/s/ Daniel F. Izzo

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Counsel for Jeffrey Mangeno

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2018 I filed a copy of the foregoing via the ecf filing system and mailed via first class mail postage pre-paid to the following:

Daniel W. Fitzgerald
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/s/ Daniel F. Izzo
Daniel F. Izzo, Esq.
Counsel for Jeffrey Mangeno